REMARKS

Applicant respectfully requests reconsideration of this application as amended. Claims 1, 16 and 24 have been amended. Claims 4, 6-15, 17-18 and 28-30 have been cancelled without prejudice. No new claims have been added. Therefore, claims 1-3, 5, 16 and 19-27 are presented for examination.

Objections to the Specification

The specification has been objected to as failing to provide the proper antecedent basis for the claimed subject matter.

Paragraph 22 of the Specification has been amended. Applicants respectfully request the withdrawal of the objection of the Specification.

35 U.S.C. 101 Rejection

Claims 24-27 are rejected under 35 U.S.C. 101, because the claimed invention is directed to non-statutory subject matter.

Paragraph 22 of the Specification has been amended. Applicants respectfully request the withdrawal of the rejection of claims 24-27.

35 U.S.C. § 112 Rejection

Claims 1, 16 and 24 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing for particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 16 and 24 have been amended. Applicants respectfully request the withdrawal of the rejection of claims 1, 16 and 24.

35 U.S.C. § 103 Rejection

Claims 1-3, 5, 16, and 19-27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bookman, U.S. Application No. 2003/0050929 ("Bookman") in view of Connelly, et al., U.S. Patent No. 7,020,893 ("Connelly").

Claim 1, as amended, recites:

> A method comprising:
> receiving content from one or more content sources;
> distributing a metadata dictionary to a plurality of network nodes, wherein the metadata dictionary comprises content descriptors;
> receiving subscription information from the plurality of network nodes;
> matching the content and the subscription information to form an aggregate content bit for the plurality of network nodes;
> creating a rating survey via the subscription information, the rating survey to maximize allocation of bandwidth, the rating survey including user data, the user data including one or more of
> user interest level relating to the content,
> user timing preference relating to receiving of the content and consuming of the content, and
> observational profile information including automated observation or user-contributed observation;
> allocating the bandwidth according to the rating survey;
> generating an aggregated content stream based on the allocated bandwidth, wherein the aggregated content stream comprises aggregated content; and
> distributing the aggregated content stream to a plurality of filtering network nodes, wherein the aggregated content stream is filtered via filtering hubs located at the plurality of filtering network nodes.
> (emphasis added)

As an initial matter, Applicant respectfully disagrees with the Examiner's characterization of the references and the pending claims. For example, neither Bookman nor Connelly teaches or reasonably suggests "allocating the bandwidth according to the rating survey" as recited by claim 1. The examiner acknowledges that Bookman does not teach or reasonably suggest the feature, but relies on Connelly and points out data streams 233 and 235 for support (see page 8, Office Action, mailed 09-02-08). Applicants respectfully disagree. Connelly's data streams 233 and 235 have nothing to

do with and are not the same as "allocating the bandwidth according to the rating survey" as recited by claim 1. Hence, Connelly does not make up for the deficiencies of Bookman.

Further, Bookman discloses "automatically build a database by automatically assigning links to an expert, pushing content to an expert, providing expert annotation, and linking the content to an annotation database." (Abstract). Bookman further discloses "data objects to execute liming rules without requiring a connection to the database." (Abstract). Ellis discloses "*niche hubs*" to provide "interactive *television program guide* features and other features and information related to a specific user interest or programming category". (Abstract; emphasis supplied).

Connelly discloses a "broadcast method and system for continuously and opportunistically driving an optimal broadcast schedule based on most recent client demand feedback from a distributed set of broadcast clients. The broadcast system includes an operation center that broadcasts meta-data to a plurality of client systems. The meta-data describes a plurality of pieces of content that are in consideration for upcoming broadcasts by the server. Each client receives the broadcasted meta-data from and sends back a set of client demand feedback data to the operations center, wherein the user feedback data reflects a client's interest level in at least a portion of the pieces of content. The feedback data, which typically may include ratings and/or relative rankings, may be user-generated, automatically-generated, or a combination of the two. The system then determines a most opportunistic piece of content to be broadcast based on an aggregation of the client demand feedback data." (Abstract; emphasis added).

Claim 1, in pertinent part, further recites "matching the content and the subscription information to form an aggregate content bit for the plurality of network nodes; creating a rating survey via the subscription information, the rating survey to

maximize allocation of bandwidth, the rating survey including user data, the user data including one or more of user interest level relating to the content, user timing preference relating to one or more of receiving of the content and consuming of the content, and observational profile information including one or more of automated observation and user-contributed observation". (emphasis added). The Examiner relies on Connelly for said features of claim 1; more specifically, the Examiner relies on columns 11, 28, and 29 and several figures of Connelly. (see pages 7-8, Office Action, mailed 09-02-08). Applicants respectfully disagree with the Examiner's assertions.

Like Bookman, Connelly does not teach or reasonably suggest matching the content and the subscription information to form an aggregate content bit for the plurality of network nodes; creating a rating survey via the subscription information, the rating survey to maximize allocation of bandwidth, the rating survey including user data, the user data including one or more of user interest level relating to the content, user timing preference relating to one or more of receiving of the content and consuming of the content, and observational profile information including one or more of automated observation and user-contributed observation as recited by claim 1. Hence, Connelly does not make up for any of the deficiencies of Bookman.

Furthermore, according to MPEP §2143, "[T]he Supreme Court in *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1395-1397 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper "functional approach" to the determination of obviousness as laid down in *Graham.*" And, according to MPEP §2143.01, [o]bviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006). Further, "[t]he mere

fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007).

Bookman and Connelly, neither individually nor when combined in combination, teach or reasonably suggest all the features of claim 1 and a *prima facie* case of obviousness has not been met under MPEP §2142. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 16 and 24 contain limitations similar to those of claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 16 and 24 and their dependent claims.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: October 31, 2008

Aslam A. Jaffery
Reg. No. 51,841

12400 Wilshire Boulevard
7th Floor
Los Angeles, California 90025-1030
(303) 740-1980